

REMARKS

The above Amendment and the following remarks are responsive to the Office Action dated June 6, 2008. The Applicant requests entry of this Amendment, favorable reconsideration of this case, and early issuance of a Notice of Allowance.

Status of the Claims

Upon entry of this paper, the Applicant has rewritten claims 1, 43, 85, 110, 135, 180, 225, 253, and 281. Thus, claims 1-284 are pending in the application, wherein claims 1, 43, 85, 110, 135, 180, 225, 253, and 281 are independent claims.

Information Disclosure Statement

The Examiner states that the "information disclosure statement filed 5/25/2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document, each non-patent literature publication or that portion which caused it to be listed". The Examiner further states, the information disclosure statement filed on 5/25/2004 "has been placed in the application file, but the information referred to therein has not been considered".

The Applicant submitted copies of the non-patent literature publications cited on the original information disclosure statement filed on 5/25/2004. In a telephone conference on 9/3/2008, the Examiner informed the Applicant that those copies were not associated with the electronic application case file in the U.S. PTO. In response, the Applicant is resubmitting the cited non-patent literature publications in an electronic form with this response. The Applicant respectfully requests that the Examiner consider these resubmitted non-patent literature publications.

Rejection Under § 101

The Examiner rejected claims 85-109 and 225-252 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter and is attempting to patent computer data. The Applicant respectfully traverses this rejection.

In response, the Applicant has amended the preamble of independent claims 85 and 225. The amended claims recite a computer program product “comprising a computer useable storage medium having computer readable program code embodied in the medium for identifying a matching resume for a job description, the computer readable program code comprising” the presently claimed “program code” limitations. Thus, the Applicant believes that independent claims 85 and 225, as amended, recite statutory subject matter and that the Examiner should withdraw this rejection.

Claims 86-109 and 226-252 depend from either independent claim 85 or 225. For the previously stated reasons, independent claims 85 and 225 are allowable. Since any claim that depends from an allowable independent claim is also allowable, the Applicant believes that the Examiner should also withdraw this rejection as to dependent claims 86-109 and 226-252.

Rejection Under § 102

The Examiner rejected claims 1-39, 43-81, 85-106, 110-131, 135-176, 180-221, 225-249, 253-277, and 281-284 under 35 U.S.C. § 102(e) as being anticipated by Bryce et al., United States Patent Application Serial Number 2002/0143573 A1 (hereinafter “Bryce”). The Applicant respectfully traverses this rejection.

Anticipation requires that each and every element of the claims must be present in the cited prior art. The claims, as amended, are not anticipated by Bryce.

Bryce describes an integrated automated recruiting management system. The Bryce system includes three components, a criteria matching application, a message center server and downloadable client, and a web-based job recruiter application. The system allows a recruiter to post a job description, receives job seeker applications, ranks and sorts candidates according to skills and qualifications, and automates the coordination of scheduling interviews.

Bryce describes that the recruiter enters recruiter information, job detail, and possibly screening questions relating to a particular job. When the candidate reviews job postings and finds one of interest, the candidate for the job enters candidate information including the

candidate's skills particularly suited for the job. Independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281, as amended, recite that "each resume summarizes a candidate's career and qualifications" and "conveys personal and business-related characteristics that the candidate believes to be relevant to a prospective employer". Since Bryce describes a system that relates skills entered by a candidate for a particular job entered by a recruiter, the Applicant believes that the Examiner should withdraw this anticipation rejection based on Bryce as to independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281.

Bryce also describes that after the candidate enters his/her skills particularly suited for the job, the criteria matching application calculates the number of years experience a candidate has in a particular skill based on the candidate's description, and calculates a percentage match to help recruiters find a good match. Additionally, the candidate may provide responses, including video, to the recruiter's screening questions. The candidate's completed job application for review by the recruiter includes the skills particularly suited for the job that were input by the candidate, the criteria matching calculations, and the responses to the screening questions by the candidate. Independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281, as amended, recite that "each resume summarizes a candidate's career and qualifications" and "conveys personal and business-related characteristics that the candidate believes to be relevant to a prospective employer". Since, the candidate application described in Bryce includes skills input by the candidate, criteria matching calculations, and candidate responses to screening questions, the candidate application described in Bryce is not equivalent to the resume as recited in the presently claimed invention. Furthermore, since Bryce requires the candidate to input skills on the candidate application and extracts from the candidate application the candidate's number of years experience in those input skills, the candidate application is not equivalent to computing a term of experience for a skill from the resume as recited in the presently claimed invention. Thus, the Applicant believes that the Examiner should withdraw this anticipation rejection based on Bryce as to independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281.

Bryce also describes that the web-based job recruiter application provides the candidate with a series of HTML forms for preparing the candidate profile. Since a server collects and saves the response by the candidate to each question on the form using a scripting language, Bryce describes that it is unnecessary to scan resumes for keywords. Independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281, as amended, recite “receiving at least one resume ... wherein each resume summarizes a candidate’s career and qualifications”. Bryce not only distinguishes between a candidate application and a resume as recited in the presently claimed invention, but also teaches away from the use of a resume as recited in the presently claimed invention. Thus, the Applicant believes that the Examiner should withdraw this anticipation rejection based on Bryce as to independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281.

Claims 2-42, 44-84, 86-109, 111-134, 136-179, 181-224, 226-252, 254-280, and 282-284 depend from either independent claim 1, 43, 85, 110, 135, 180, 225, 253, or 281. Since any claim that depends from an allowable independent claim is also allowable, the Applicant believes that the Examiner should also withdraw this anticipation rejection based on Bryce as to dependent claims 2-42, 44-84, 86-109, 111-134, 136-179, 181-224, 226-252, 254-280, and 282-284.

Rejection Under § 103

The Examiner rejected claims 40-42, 82-84, 107-109, 132-134, 177-179, 222-224, 250-252, and 278-280 under 35 U.S.C. § 103(a) as being unpatentable over Bryce in view of Thomas, United States Patent Application Serial Number 2002/0055870 A1 (hereinafter “Thomas”). The Applicant respectfully traverses this rejection.

The differences between the claims, as amended, and Bryce and Thomas, taken either alone or in combination, are nonobvious. As reiterated by the Supreme Court in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ.2d 1385, 1391 (2007), the framework for the objective analysis for determining obviousness under 35 U.S.C. § 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). Thus, the analysis of patentability under 35 U.S.C. § 103 requires consideration of four factors: (i) the scope and content of the prior art, (ii) the differences

between the prior art and the claims as a whole, (iii) the level of ordinary skill in the art, and (iv) objective evidence of non-obviousness. *Graham* at 13. Combining elements from different prior art references in hindsight is to be avoided.

For the reasons stated in the previous section of this response, titled “Rejection Under § 102”, the differences between the limitations of independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281, as amended, and the Bryce reference are nonobvious.

Thomas describes an automated human resource assessment system having computer-based processes. The system described in Thomas enables an organization to manage its internal and external workforce more effectively by enhancing its ability to plan, acquire, develop, and evaluate the workforce. To enhance the ability to acquire the workforce, Thomas describes that the system eliminates the traditional text based resume and replaces it with a standardized profile, which includes organized skills and content attributes. In contrast, independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281, as amended, recite “receiving at least one resume” where “each resume summarizes a candidate’s career and qualifications” and “conveys personal and business-related characteristics that the candidate believes to be relevant to a prospective employer”. Since Thomas describes the elimination of the traditional text based resume and replaces it with a standardized profile, rather than receiving a resume as recited in the presently claimed invention, independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281 are nonobvious over Thomas, taken alone. Furthermore, since Thomas does not make up for the shortcomings of Bryce described herein, independent claims 1, 43, 85, 110, 135, 180, 225, 253, and 281 are also nonobvious over the combination of Bryce and Thomas.

Claims 40-42, 82-84, 107-109, 132-134, 177-179, 222-224, 250-252, and 278-280 depend from either independent claim 1, 43, 85, 110, 135, 180, 225, 253, or 281. Since any claim that depends from an allowable independent claim is also allowable, the Applicant believes that the Examiner should also withdraw this obviousness rejection based on Bryce and Thomas as to dependent claims 40-42, 82-84, 107-109, 132-134, 177-179, 222-224, 250-252, and 278-280.

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